



Ruthanne Fuller  
Mayor

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Barney S. Heath  
Director

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**PUBLIC HEARING MEMORANDUM**

Public Hearing Date: June 11, 2019  
Land Use Action Date: August 27, 2019  
City Council Action Date: September 3, 2019  
90-Day Expiration Date: September 9, 2019

DATE: June 7, 2019

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development  
Jennifer Caira, Chief Planner for Current Planning  
Neil Cronin, Senior Planner

SUBJECT: **Petition #88-19**, for SPECIAL PERMIT/SITE PLAN APPROVAL to allow a rear lot subdivision and to extend a nonconforming side setback at 41 Washington Street, Ward 1, Newton Corner, on land known as Section 71, Block 29, Lot 07, containing approximately 25,964 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: §3.1.5, 3.1.10, §3.1.3, §7.3.3, §7.4, and §7.8.2.C.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

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The purpose of this memorandum is to provide the City Council and the public with technical information and planning analysis conducted by the Planning Department. The Planning Department's intention is to provide a balanced review of the proposed project based on information it has at the time of the public hearing. Additional information about the project may be presented at or after the public hearing for consideration at a subsequent working session by the Land Use Committee of the City Council.



**41 Washington Street**

### **EXECUTIVE SUMMARY**

The subject property located at 41 Washington Street consists of a 25,964 square foot lot in the Single Residence 3 (the "SR-3") zone in Newton Corner. The property is improved with a Queen Ann style nonconforming two-family dwelling constructed circa 1891. The dwelling is nonconforming in two aspects: (1) the use is a two-family use in the SR-3 zone; and (2) the structure has a side setback of 4.8 feet, where 7.5 feet is the minimum allowed. The petitioner is seeking to allow a rear lot subdivision to construct a single-family dwelling to the rear of the property. Rear lot subdivisions are only allowed via special permit and the subdivision will alter the dimensions of the lot, extending the nonconforming side setback. As a result, the petitioner requires special permits to allow a rear lot subdivision and to extend the nonconforming side setback.

The Planning Department is generally unconcerned with the requests to allow the rear lot subdivision and to extend the nonconforming side setback. The proposed lot and dwelling will comply with the dimensional standards of a new lot in the SR-3 zone and the proposed dwelling will be compatible in height, yet smaller in scale than the abutting dwellings. The Planning Department suggests the petitioner be required to submit a final landscape plan to the Director of Planning and Development for review and approval prior to the issuance of an occupancy certificate, should this petition be approved.

#### **I. SIGNIFICANT ISSUES FOR CONSIDERATION**

When reviewing this petition, the City Council should consider whether:

- the specific site is an appropriate location for the proposed rear lot subdivision (§7.3.3.C.1);
- the rear lot subdivision as developed and operated will not adversely affect the neighborhood, (§7.3.3.C.2);
- there would be no nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3);
- access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4); and
- the proposed extension of the nonconforming side setback is substantially more detrimental than the existing setback is to the neighborhood (§3.1.3 and §7.8.2.C.2).

As the petition is requesting approval of a rear lot development in a residential zoning district, the City Council shall also consider the following criteria:

- whether the proposed buildings or structures exceed the respective average height of abutting residential buildings and any structures used for accessory purposes (§7.3.4.B.1);

- the scale of proposed buildings or structures in relation to adjacent residential buildings and structures used for accessory purposes and in relation to the character of the neighborhood (§7.3.4.B.2);
- topographic differentials, if any, between proposed buildings or structures and adjacent residential buildings and any structures used for accessory purposes (§7.3.4.B.3);
- proposed landscape screening (§7.3.4.B.4);
- adequacy of vehicular access, including, but not limited to fire and other public safety equipment, with emphasis on facilitating common driveways (§7.3.4.B.5);
- whether any historic or conservation public benefit is provided or advanced by the proposed development (§7.3.4.B.6);
- Whether the location of structures used for accessory purposes or mechanical equipment, including but not limited to free-standing air conditioning units or compressors, on the new rear lot or on abutting lots will negatively impact either the proposed rear lot development or abutting property (§7.3.4.B.7);
- siting of the proposed buildings or structures with reference to abutting residential buildings or any structures used for accessory purposes (§7.3.4.B.8); and
- impact of proposed lighting on the abutting properties (§7.3.4.B.9).

## II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

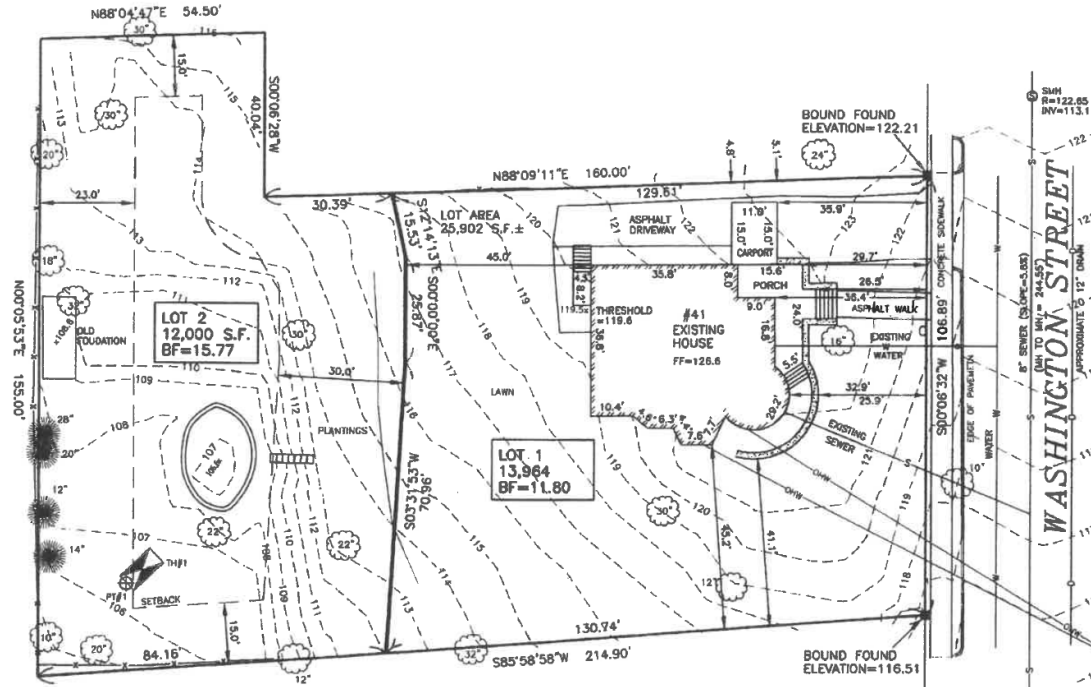
### A. Neighborhood and Zoning

The subject property is located on Washington Street in the SR-3 zone in Newton Corner. The SR-3 zone encompasses the immediate area except for a block of parcels across the street from the subject property which are located in the Multi-Residence 1 (the “MR-1”) zone (**Attachment A**). Given the SR-3 and the MR-1 districts, the area consists entirely of single and multi-family uses (**Attachment B**).

### B. Site

The site consists of 25,964 square feet of land improved with a nonconforming two-family dwelling constructed circa 1891; the structure is an example of Queen Ann architecture. A curb cut at the northeast corner of the site provides access to a two-stall, tandem surface parking facility. Otherwise, the lot is improved with lawn and mature landscaping. The lot slopes up from the street such that the first floor of the structure lies approximately five feet above the grade of the sidewalk. From the rear of the dwelling, the lot slopes down slightly before dropping of by approximately six feet towards the rear of the lot; this lower area is the proposed rear lot. This area is generally flat but is overgrown with wild brush. This area is also partially enclosed with fencing at the southern and western boundaries which is in disrepair.

### Existing Site Plan



## III. PROJECT DESCRIPTION AND ANALYSIS

### A. Land Use

If approved, the petitioner will abandon the two-family use in the existing structure. The principal use of the site will then change from one lot containing a nonconforming two-family dwelling to two lots, each containing a single-family dwelling.

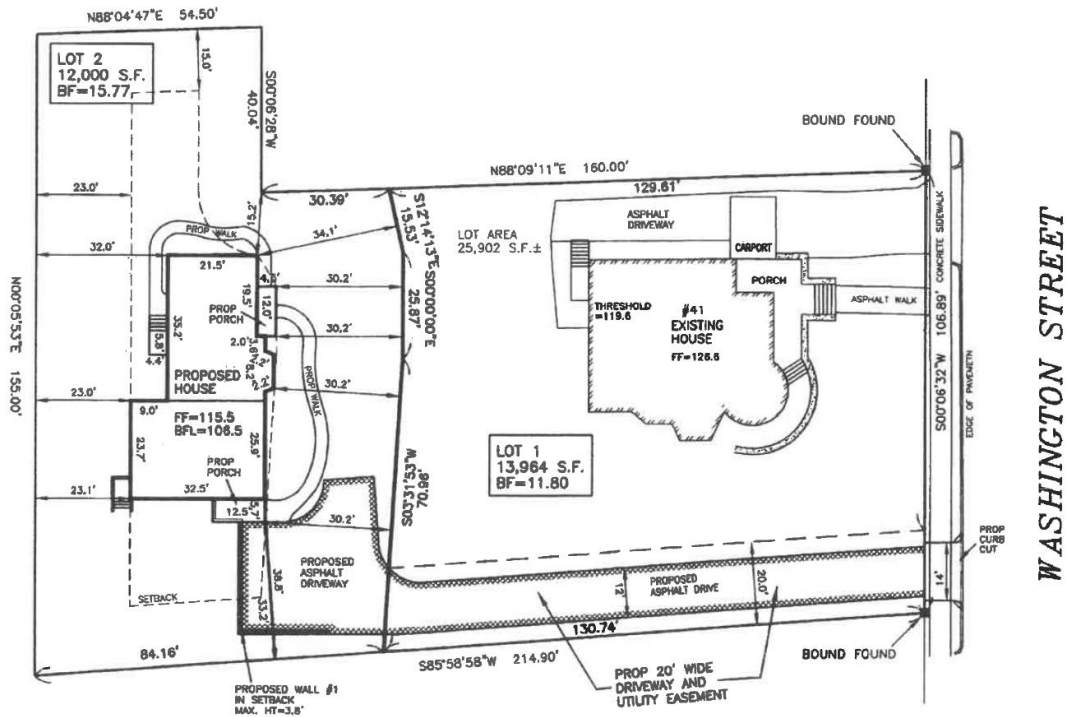
### B. Site Design

The petitioner is proposing to create a rear lot accessed via an easement over the existing front lot. This easement will be approximately 20-feet wide and 164 feet long, but only 12 feet of its width will be paved to allow for vehicular access; the remaining eight feet will be unimproved. This easement will be accessed from an approximately 14-foot wide curb cut from Washington Street at the southeastern portion of the front lot. The petitioner is not proposing any other changes to the front lot.

The proposed rear lot will be created approximately 45 feet from the rear of the existing dwelling. The rear lot will contain approximately 12,000 square feet and will be improved with a 1.5-story single-family dwelling. As stated above, the access will be in the form of an easement over the front lot, leading to a two-stall surface parking facility with a hammerhead for maneuvering. This parking facility will require the construction of a retaining wall, which is 3.8 feet at its tallest point within the setback. The petitioner is

not proposing major changes to the rear lot.

### Proposed Site Plan



### C. Building Design

The petitioner is not proposing any changes to the existing dwelling on site. The subdivision will render the front lot a new lot that requires a side yard setback of 10 feet, where 4.8 feet exists. The Planning Department is unconcerned with this change as it is an outcome of the Newton Zoning Ordinance (the "Ordinance") rather than a change in the structure's footprint. The proposed dwelling on the rear lot will contain 1.5 stories and will be an example of Contemporary architecture. The dwelling will be 28 feet tall and have a Floor Area Ratio (the "FAR") of .19 (2,281 square feet), where a FAR of .24 (2,880 square feet) is the maximum allowed for a rear lot. The dwelling and the lot comply with all dimensional standards of a new lot in the SR-3 zone.

### Proposed South and East Elevations



D. Landscape and Screening

As stated above, the rear of the lot is overgrown with wild brush and trees. The petitioner is proposing to retain a number of these trees, but four trees totaling 86 caliper inches will be removed to allow for the proposed driveway and dwelling. The petitioner will also be removing several saplings, that are not protected by the City's Tree Preservation Ordinance. The petitioner has stated that given the uncertainty of sun exposure, a landscape plan may be inappropriate at this stage. The Planning Department understands this concern. However, developing this portion of the lot will be a large change from the existing condition, especially along the southern and western boundaries. Should this petition be approved, staff suggests that the petitioner be required to submit a landscape plan prior to the issuance of a certificate of occupancy for the proposed dwelling. This will allow the petitioner to gain a better understanding of the lot to prepare a more in-depth plan. Additionally, staff suggests that the petitioner remove and replace the stockade fencing along the southern boundary and to continue this fencing along the proposed driveway to provide screening from the abutter to the south at 47 Washington Street.

IV. REAR LOT SUBDIVISION CRITERIA

The Ordinance establishes additional requirements for rear lots in residential districts, including additional review criteria. These criteria include assessing the height, scale and topographical differences of and between proposed structures which are the products of rear lot subdivisions and abutting and adjacent residential buildings and structures used for accessory purposes. Other additional criteria include potential impacts on abutting properties from mechanical equipment and lighting.

Due to the distance of the proposed rear lot from Washington Street and to the siting of the proposed dwelling, the dwelling should be compared to the dwellings along Grasmere Street to the south, Merton Street to the west, and Elmhurst Road to the north rather than to the dwellings along Washington Street. Several dwellings along these roads are built above the grade of the street, contain two to three stories, and feature turrets and other architectural elements indicative of the Queen Ann style. As a result, the Planning Department believes that the proposed 1.5-story dwelling will not have an adverse impact on the abutting dwellings in the area. Furthermore, the plan provided by the petitioner comparing the height of the proposed dwellings with the height of the abutting dwellings indicates that the peak elevation of the proposed dwelling is consistent with the peak elevations of these abutting dwellings. The plan also indicates that the proposed dwelling will be an appropriate distance from these dwellings.

The petitioner is not proposing for both dwellings to share one curb cut. The existing dwelling is accessed from a curb cut at the northeastern boundary, leading to a porte-

cohere. The Planning Department believes using this curb cut for the proposed rear lot would be impractical and that sharing a curb cut at the opposite façade would detract from the character of the existing dwelling. The proposed curb cut at the southeastern boundary is approximately 69 feet from the existing curb cut and is approximately 13 feet from the abutter's curb cut at 47 Washington Street. The Planning Department believes these distances are sufficient to ensure the proposed curb cut will not affect the pedestrian experience along Washington Street.

#### IV. TECHNICAL REVIEW

##### A. Technical Considerations (Chapter 30, Newton Zoning Ordinance):

The Zoning Review Memorandum (the "Memorandum") provides an analysis of the proposal regarding zoning (**Attachment C**). Based on the Memorandum, the petitioner is seeking as the following relief:

- §3.1.5 and §3.1.10 of Section 30, to allow a rear lot subdivision.
- §3.1.3 and §7.8.2.C.2 of Section 30, to extend a nonconforming side setback.

##### B. Engineering Review

Associate City Engineer, John Daghljan, reviewed this petition for conformance with the City of Newton Engineering Standards (**Attachment D**). Mr. Daghljan notes some additional information is needed to ensure the proposed drainage system will be sized accordingly to accommodate the amount of proposed impervious area. Staff believes these issues can be addressed at the building permit stage, should this petition be approved.

##### C. Newton Fire Department

The City of Newton Fire Prevention Office approved the site plan provided that the proposed dwelling would be equipped with a fire suppression system. The Office of Fire Prevention will review the plans again prior to the issuance of a building permit, should this petition be approved.

##### D. Newton Historical Commission

This petition does not meet the minimum threshold for review from the Newton Historical Commission.

V. PETITIONER'S RESPONSIBILITIES

The petitioner should respond to the issues raised in this memorandum and other questions raised at the public hearing as necessary. Written responses to all significant issues should be provided for analysis by the Planning Department prior to being scheduled for additional public hearings. The Planning Department will prepare an updated memo prior to any future public hearings.

**ATTACHMENTS:**

- Attachment A:** Land Use Map
- Attachment B:** Zoning Map
- Attachment C:** Zoning Review Memorandum, dated January 31, 2019
- Attachment D:** Engineering Review Memorandum, dated May 14, 2019
- Attachment E:** DRAFT Council Order

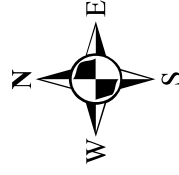


# Attachment A Zoning Map Washington St., 41

City of Newton,  
Massachusetts

## Legend

- Single Residence 3
- Multi-Residence 1
- Building Outlines
- Surface Water
- Property Boundaries



The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based solely on GIS data.

CITY OF NEWTON, MASSACHUSETTS  
Mayor - Ruthanne Fuller

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Map Date: May 13, 2019



# Attachment B Land Use Map Washington St., 41

City of Newton,  
Massachusetts

## Legend

### Land Use

### Land Use

Single Family Residential

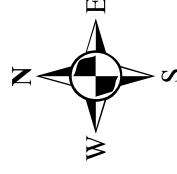
Multi-Family Residential

Vacant Land

Building Outlines

Surface Water

Property Boundaries

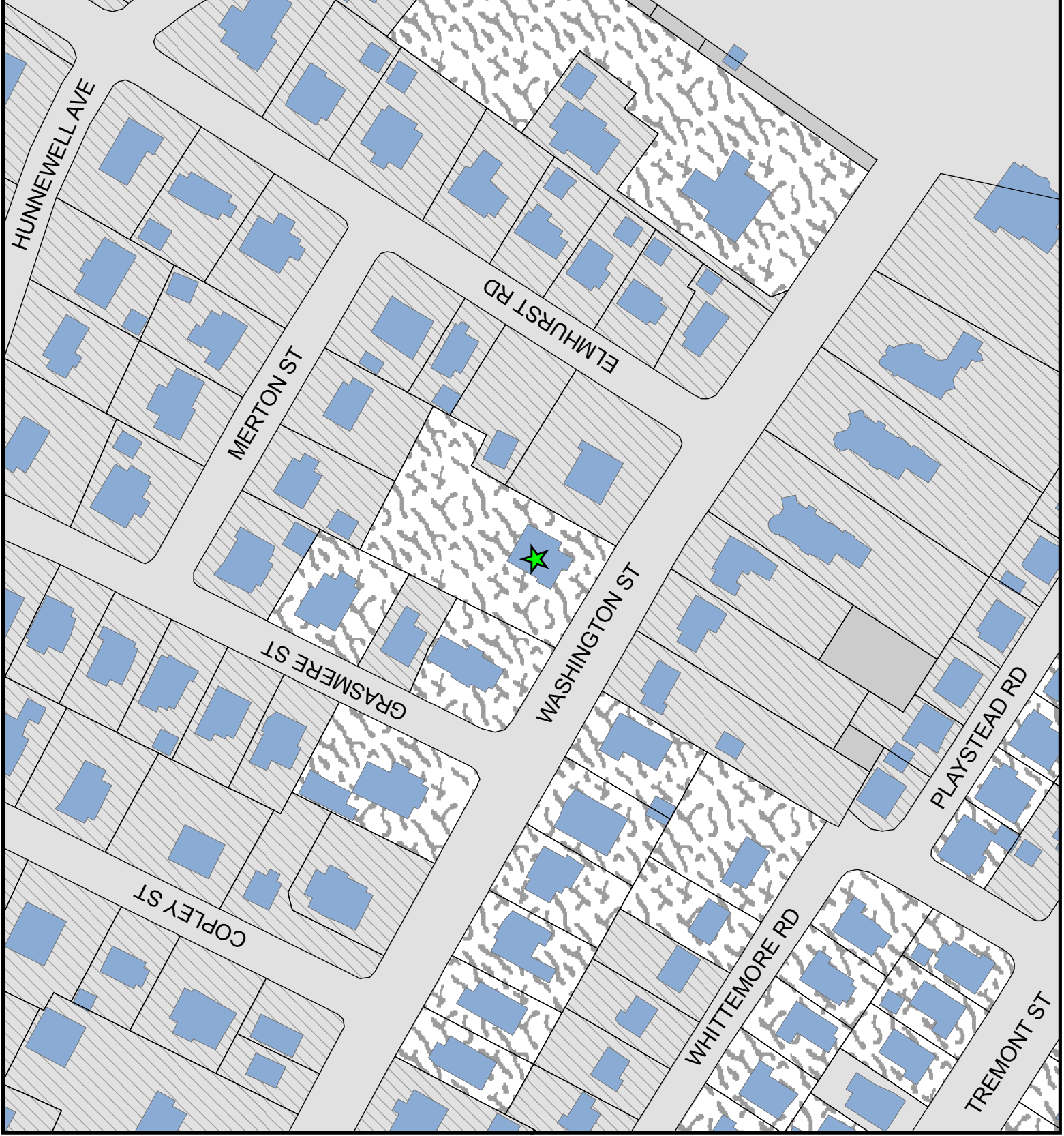


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CITY OF NEWTON, MASSACHUSETTS  
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0 50 100  
Feet

Map Date: May 13, 2019





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**Barney S. Heath**  
Director

## ZONING REVIEW MEMORANDUM

**Date:** January 31, 2019

**To:** John Lojek, Commissioner of Inspectional Services

**From:** Jane Santosuosso, Chief Zoning Code Official

**Cc:** Peter Harrington, Attorney  
Jane O'Connor, Applicant  
Barney S. Heath, Director of Planning and Development  
Jonah Temple, Assistant City Solicitor

**RE:** Request to allow a rear-lot subdivision and to extend an existing nonconforming side setback

Applicant: Jane O'Connor	
<b>Site:</b> 41 Washington Street	<b>SBL:</b> 71029 0007
<b>Zoning:</b> SR3	<b>Lot Area:</b> 25,964 square feet
<b>Current use:</b> Two-family dwelling	<b>Proposed use:</b> Two single-family dwellings on two separate lots

### BACKGROUND:

The property at 41 Washington Street consists of 25,964 square feet and is improved with a dwelling built in 1891 in the SR3 zoning district, originally as a single-family and converted into two units in 1925. The applicant proposes to subdivide the lot to create an 12,000 square foot rear lot intended for the construction of a single-family dwelling, while maintaining the existing structure on the front lot to be converted back to a single.

The following review is based on plans and materials submitted to date as noted below.

- Zoning Review Application, prepared by Peter Harrington, Attorney, dated 7/17/2018
- Area Plan of Land, signed and stamped by Bruce Bradford, surveyor, dated 12/1/2015
- FAR Worksheets, signed and stamped by Bruce Bradford, dated 1/8/2019
- Proposed Site Plan, signed and stamped by Joseph R. Porter, surveyor, dated 2/14/2018
- Site Plan of Land, signed and stamped by Michael S. Kosmo, civil engineer and Bruce Bradford, surveyor, dated 4/11/2018, revision submitted 1/30/2019
- Architectural Plans and Elevations, prepared by D.W. Arthur Associates Architecture, Inc, dated 4/9/2015, revised 10/5/2015, 11/10/2015, 2/5/2016, 5/10/2017

#### **ADMINISTRATIVE DETERMINATIONS:**

1. The applicant proposes to create a rear lot subdivision per Sections 3.1.5 and 3.1.10. To subdivide the land as proposed, the applicant must obtain a special permit per Section 3.1.10.A.
2. Section 3.1.10.B.1 requires that a 20-foot wide vehicular access, or access easement, be provided. The rear lot will be accessed by a 20-foot wide easement with a 14 foot wide paved street opening, which narrows to a 12 foot wide driveway to the rear lot.
3. Section 3.1.10.B.2 requires both the front and rear lots to meet the frontage requirements for new lots in the zoning district. The front lot has an existing frontage of 107 feet, where 80 feet is required. The rear lot gains its frontage from the rear lot line of 41 Washington Street. The frontage for the rear lot is the width of the property, or 112.36 feet, which meets the requirements of the Ordinance.
4. The proposed dwelling on the rear lot is situated 30.2 feet from the rear lot line of the front lot (41 Washington Street), which meets the requirements of Section 3.1.10.B.3.a
5. The proposed structures meet the required rear and side setbacks set forth in Section 3.1.5.
6. The existing dwelling at 41 Washington Street has an existing nonconforming side setback of 4.8 feet on the northern property boundary, where 7.5 feet is currently required. The division of land renders the lot a "new lot", which requires a side setback of 10 feet. A special permit per section 7.8.2.C.2 is required to allow for the extended nonconforming setback, although the structure will not be altered.
7. The proposed dwelling has a maximum height of 28.2 feet, where 36 feet is the maximum allowed. No relief is required for the proposed heights of the structures.
8. After the reduction in lot size, the existing single-family dwelling on the front lot will have an FAR of .37, where .39 is the maximum allowed for a 13,964 square foot lot. The dwelling on the rear lot will have an FAR of .19, where .24 is the maximum allowed. Neither structure requires FAR relief.



**Front Lot (Lot 1) per Section 3.1.3**

SR3 Zone	Required/Allowed	Proposed
Lot Size	10,000 square feet	13,964 square feet
Frontage	80 feet	107 feet
Setbacks <ul style="list-style-type: none"> <li>• Front</li> <li>• Side</li> <li>• Rear</li> </ul>	25 feet* 10 feet 15 feet	26.5 feet <b>4.8 feet</b> 45 feet
FAR	.39	.37
Maximum Stories	2.5	2.5
Max. Lot Coverage	20%	13.6%
Min. Open Space	50%	65.8%

\*Average front setback per section 1.5.3.B

**Proposed Rear Lot (Lot 2), per Section 3.1.5**

SR3 Zone	Required/Allowed	Proposed
Lot Size	12,000 square feet	12,000 square feet
Frontage	100 feet	121.37 feet
Vehicle Access	20 feet	20 feet
Setbacks <ul style="list-style-type: none"> <li>• Front</li> <li>• Side</li> <li>• Rear</li> </ul>	30 feet 15 feet 23 feet	30.2 feet 15.2 feet 23 feet
FAR	0.24	0.19
Building Height	36 feet	28.2 feet
Maximum Stories	2.5	2.5
Max. Lot Coverage	17%	14.2%
Min. Open Space	65%	76.9%

9. See "Zoning Relief Summary" below:

Zoning Relief Required		
Ordinance	Site	Action Required
§3.1.5 §3.1.10	Request to allow a rear lot subdivision	S.P. per §7.3.3
§3.1.3 §7.8.2.C.2	Request to extend a nonconforming side setback	S.P. per §7.3.3

CITY OF NEWTON  
Department of Public Works  
ENGINEERING DIVISION

MEMORANDUM

To: Council Gregory Schwartz, Land Use Committee Chairman

From: John Daghljan, Associate City Engineer

Re: Special Permit – 41 Washington Street

Date: May 14, 2019

CC: Barney Heath, Director of Planning  
Jennifer Caira, Chief Planner  
Lou Taverna, PE City Engineer  
Nadia Khan, Committee Clerk  
Neil Cronin, Sr. Planner

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In reference to the above site, I have the following comments for a plan entitled:

*Site Plan of Land in Newton, MA  
41 Washington Street  
Prepared by Everett M. Brooks Company  
Dated: November 4, 2015  
Revised: 9/20/18*

Executive Summary:

This application entails the creation of a rear lot subdivision from an existing lot comprising of 25,902 square feet [0.594 acre]; by creating a second lot, the configuration of lot #1 with the existing dwelling will be (13,964 sq. ft) and the rear new lot #2 will have (12,000 sq. ft). The site has approximately 107-feet of frontage along Washington Street, and has residential homes on the north, west, and south boundaries. If the special permit is approved an Approval Not Required (ANR) plan will be needed in accordance to Massachusetts General Laws Chapter 41 Section 81P requiring the single lot being subdivided into two lots, the creating of an ANR should be part of the Board Order requirement.

Access for the rear lot will be via an access easement that is proposed along the southern property line through the front parcel.

The proposed site [lot 2] has a high point elevation of 116-feet at the northeast corner and slopes towards the southwest to a low point of 106-feet. The site is heavily vegetated with trees, grass and wild brush. The engineer of record has designed a stormwater collection system for 100-year storm event for the entire roof of the new dwelling, the connections from the roof to the proposed system needs clarification there's is only one roof leader connection shown. The underground pipe(s) or collection manifold needs to be delineated clearly on the site plan. The infiltration system for the driveway runoff has only been sized to the 2-year storm, this must also be redesigned to have the capacity of infiltrating the 100-year storm event.

*Pre & Post* watershed maps are needed to confirm the design assumptions. Additional test pit is required in the vicinity of the infiltration system for the driveway. An impervious barrier will be required on the downstream side of drainage system #1.

Based on the slow percolation rate, the engineer needs to submit a calculation to determine how long it will take for system #1 to be completely drained, the DEP mandates a maximum of 72 hours.

The new lot will have a single-family dwelling serviced by municipal utilities extend through a utility easement towards Washington Street. Once the new driveway and utilities have been installed the sidewalk and aprons should be updated to current standards.

#### Construction Management:

1. A construction management plan is needed for this project. At a minimum, it must address the following: staging site for construction equipment, construction materials, parking of construction worker's vehicles, phasing of the project with anticipated completion dates and milestones, safety precautions, emergency contact personnel of contractor. It shall also address any anticipated dewatering during construction, site safety & stability, and impact to abutting properties.
2. Stabilized driveway entrances are needed during construction which will provide a tire wash and mud removal to ensure City streets are kept clean.

#### Drainage:

1. An Operations and Maintenance (O&M) plan for Stormwater Management Facilities needs to be drafted and submitted for review. Once approved the O&M must be adopted by applicant, incorporated into the deeds; and recorded at the

Middlesex Registry of Deeds. A copy of the recording instrument shall be submitted to the Engineering Division.

2. It is imperative to note that the ownership, operation, and maintenance of the proposed drainage system and all appurtenances including but not limited to the drywells, catch basins, and pipes are the sole responsibility of the property owner(s).

Environmental:

1. Has a 21E investigation & report been performed on the site, if so copies of the report should be submitted the Newton Board of Health and the Engineering Division.
2. Are there any existing underground oil or fuel tanks, are they to be removed, if they have been evidence should be submitted to the Newton Fire Department, and Newton Board of Health.

Sewer:

1. With the exception of natural gas service(s), all utility trenches with the right of way shall be backfilled with Control Density Fill (CDF) Excavatable Type I-E, detail is available in the City of Newton Construction Standards Detail Book.
2. All new sewer service and/or structures shall be pressure tested or videotaped after final installation is complete. Method of final inspection shall be determined solely by the construction inspector from the City Engineering Division. All sewer manholes shall be vacuum tested in accordance to the City's Construction Standards & Specifications. The sewer service will NOT be accepted until one of the two methods stated above is completed. All testing MUST be witnessed by a representative of the Engineering Division. A Certificate of Occupancy will not be recommended until this test is completed and a written report is received by the City Engineer. ***This note must be added to the final approved plans.***
3. All sewer manholes shall be vacuum tested in accordance to the City's Construction Standards & Specifications. The sewer service will NOT be accepted until one of the two methods stated above is completed. All testing MUST be witnessed by a representative of the Engineering Division. A Certificate of Occupancy will not be recommended until this test is completed and a written report is received by the City Engineer.



Water:

1. Fire flow testing is required for the proposed fire suppression system. The applicant must coordinate this test with both the Newton Fire Department and the Utilities Division; representatives of each department shall witness the testing, test results shall be submitted in a write report. Hydraulic calculation shall be submitted to the Newton Fire Department for approval.
2. All water connections shall be chlorinated & pressure tested in accordance to AWWA and the City of Newton Construction Standards and Specifications prior to opening the connection to existing pipes.
3. Approval of the final configuration of the water service(s) shall be determined by the Utilities Division, the engineer of record should submit a plan to the Director of Utilities for approval

General:

1. All trench excavation contractors shall comply with Massachusetts General Laws Chapter 82A, Trench Excavation Safety Requirements, to protect the general public from unauthorized access to unattended trenches. Trench Excavation Permit required. This applies to all trenches on public and private property. *This note shall be incorporated onto the plans*
2. All tree removal shall comply with the City's Tree Ordinance.
3. The contractor is responsible for contacting the Engineering Division and scheduling an appointment 48 hours prior to the date when the utilities will be made available for an inspection of water services, sewer service, and drainage system installation. The utility is question shall be fully exposed for the inspector to view; backfilling shall only take place when the City's Inspector has given their approval. *This note should be incorporated onto the plans*
4. The applicant will have to apply for Street Opening, Sidewalk Crossing, and Utilities Connecting permits with the Department of Public Works prior to any construction. *This note must be incorporated onto the site plan.*
5. The applicant will have to apply for a Building Permits with the Department of Inspectional Service prior to any construction.

6. Prior to Occupancy Permit being issued, an As-Built Plan shall be submitted to the Engineering Division in both digital format and in hard copy. The plan should show all utilities and final grades, any easements and final grading, improvements and limits of restoration work. The plan shall also include profiles of the various new utilities, indicating rim & invert elevations, slopes of pipes, pipe material, and swing ties from permanent building corners. ***This note must be incorporated onto the final contract plans.***
7. All site work including trench restoration must being completed before a Certificate of Occupancy is issued. *This note must be incorporated onto the site plan.*
8. If any changes from the original approved design plan that are required due to unforeseen site conditions, the engineer of record shall submit a revised design & stamped and submitted for review and approval prior to continuing construction.

Note: If the plans are updated it is the responsibility of the Applicant to provide all City Departments [Conservation Commission, ISD, and Engineering] involved in the permitting and approval process with complete and consistent plans.

If you have any questions or concerns please feel free to contact me @ 617-796-1023.

CITY OF NEWTON

IN CITY COUNCIL

ORDERED:

That the Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of the following SPECIAL PERMIT/SITE PLAN APPROVAL to allow a rear lot subdivision and to extend a nonconforming side setback, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Gregory Schwartz:

1. The specific site is an appropriate location for the proposed rear lot subdivision because the site is located within the Single Residence 3 (the "SR-3") zone and the site contains the requisite amount of land. (§7.3.3.C.1)
2. The rear lot subdivision as developed and operated will not adversely affect the neighborhood. (§7.3.3.C.2)
3. There will be no nuisance or serious hazard to vehicles or pedestrians. (§7.3.3.C.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)
5. The proposed extension of the nonconforming side setback is not substantially more detrimental than the existing setback is to the neighborhood because the petitioner is not altering the footprint of the existing structure. (§3.1.3 and §7.8.2.C.2)

With regard to a special permit authorizing the creation of a rear lot and the construction of a single-family dwelling, pursuant to §7.3.4.B:

6. At 28.2 feet tall, the height of the proposed dwelling will not exceed the respective average height of abutting residential buildings and any structures used for accessory purposes. (§7.3.4.B.1)
7. The proposed single-family dwelling is designed in such a manner that its massing and scale will be in character and consistent with adjacent existing and allowed residential structures in the surrounding SR-3 zoning district. (§7.3.4.B.2)

8. Differences in the relative dwelling heights between the proposed dwelling and structures on abutting properties largely reflect the neighborhood's topography. (§7.3.4.B.3)
9. The proposed landscape plan maintains several mature trees to retain the character of the lot while allowing for the proposed dwelling. (§7.3.4.B.4)
10. The proposed driveway from Washington Street will not adversely impact the neighborhood because of its distances from the existing curb cut to the north and from the abutter's curb cut to the south. (§7.3.4.B.5)
11. The Council finds that the petitioner's removal of several invasive Norway Maple trees is a conservation public benefit because Norway Maples are an invasive species. (§7.3.4.B.6)
12. The petitioner is not proposing to construct any structures used for accessory purposes. Free-standing air conditioning units or compressors, on the new rear lot, if proposed, will comply with the dimensional requirements of such equipment and will therefore not negatively impact either the proposed rear lot or abutting properties (§7.3.4.B.7);
13. The siting of the proposed dwelling is appropriate given the distances of abutting residential structures. (§7.3.4.B.8)
14. The proposed lighting will be residential in character and will not impact abutting properties. (§7.3.4.B.9)

PETITION NUMBER: #88-19

PETITIONER: Jane H. O'Connor

LOCATION: 41 Washington Street, on land known as Section 71 Block 29 Lot 07, containing approximately 25,964 square feet of land

OWNER: Jane H. O'Connor

ADDRESS OF OWNER: 41 Washington Street  
Newton, MA 02458

TO BE USED FOR: Creation of a rear lot and construction of one new single-family dwelling.

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: to allow a rear-lot subdivision with the frontage of the rear lot measured along the rear line of the front lot (§3.1.5 and §3.1.10); and to extend a nonconforming side setback of the existing dwelling on the front lot (§3.1.3 and §7.8.2.C.2)

ZONING: SR-3 District

Approved subject to the following conditions:

1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this special permit/site plan approval shall be located and constructed consistent with:
  - a. A set of plans prepared by Everett M. Brooks CO., signed and stamped by Michael S. Kosmo, Professional Engineer and Bruce Bradford, Professional Land Surveyor, consisting of the approximately five (5) sheets:
    - i. "Area Plan 41 Washington Street," dated December 1, 2015, revised January 14, 2016;
    - ii. "Existing Conditions" and "Proposed Layout" Plans, dated November 4, 2015 revised through September 20, 2018;
    - iii. "Proposed Utilities and Grading," and "Proposed Landscape" Plans, dated November 4, 2015 revised through September 20, 2018;
    - iv. "Detail" Plan, dated November 4, 2015 revised through September 20, 2018;
  - b. A set of architectural drawings for the new single-family dwelling, entitled "O'Connor Residence 41 Washington Street, Newton MA," prepared by D.W. Arthur Associates, Inc., signed and stamped by Dogan W. Arthur, Registered Architect, revised through May 10, 2017, containing approximately five (5) sheets:
    - i. "Cover Sheet"
    - ii. "Site Plan," (Sheet C1.0);
    - iii. "Floor Plans," (Sheet A1.0);
    - iv. "Elevations," (Sheet A2.0); and
    - v. "Zoning Area Plans" (Sheet A3.0).
2. This Special Permit/Site Plan Approval shall be recorded at the Middlesex South Registry of Deeds against the property at 41 Washington Street and against the proposed rear lot.
3. All utilities shall be located underground from the property line.
4. All lighting fixtures shall be residential in scale.
5. The proposed dwelling shall be equipped with a fire suppression system as reviewed and approved by the City of Newton Fire Prevention Office.
6. Prior to the issuance of any Building Permit, the petitioner shall abandon the two-family use in the existing dwelling known as 41 Washington Street.
7. Prior to the issuance of any Building Permit, the petitioner shall provide an Approval Not Required (the "ANR Plan") to the Engineering Division of Public Works for review and approval. Once approved, the ANR Plan must be recorded at the Middlesex South Registry of Deeds. A recorded copy of the ANR Plan shall be submitted to the Engineering Division of Public Works, the Department of Planning and Development, the Inspectional Services Department.

8. Prior to the issuance of any Building Permit, the petitioner shall provide a final Site Plan for review and approval by the Department of Planning and Development, Engineering Division of Public Works and Fire Department.
9. No Building Permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has, as such relates to the dwelling for which the such building permit is requested:
  - a. Recorded a certified copy of this Order for the approved Special Permit/Site Plan Approval with the Registry of Deeds for the Southern District of Middlesex County for both parcels.
  - b. Filed a copy of such recorded Order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
  - c. Provided a copy of the recorded ANR Plan to the Engineering Division of Public Works, the Department of Inspectional Services, and the Department of Planning and Development.
  - d. Submitted final engineering, utility, and drainage plans for review and approval by the City Engineer. A statement certifying such approval shall have been filed with the City Clerk, the Commissioner of Inspectional Services, and the Director of Planning and Development.
  - e. Obtained a written statement from the Planning Department that confirms the Building Permit plans are consistent with plans approved in Condition #1.
10. Prior to the issuance of an occupancy certificate, the petitioner shall provide a final Operations and Maintenance Plan (the "O&M Plan") for stormwater management to the Engineering Division of Public Works for review and approval. Once approved, the O&M Plan must be adopted by applicant, incorporated into the deeds, and recorded at the Middlesex South Registry of Deeds. A copy of the recorded O&M shall be submitted to the Engineering Division of Public Works, the Department of Inspectional Services, and the Department of Inspectional Services.
11. Prior to the issuance of an occupancy certificate, the petitioner shall provide a Final Landscape Plan showing all new plantings, for review and approval by the Director of Planning and Development.
12. No Final Inspection and/or Occupancy Permit for the proposed dwelling constructed pursuant to this Special Permit/Site Plan Approval shall be issued until the petitioner has, as such relates to the dwelling(s) for which the such Final Inspection and/or Occupancy Permit is requested:
  - a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development statements by a registered architect and professional land surveyor certifying compliance with Condition #1.
  - b. Submitted to the Director of Planning and Development, Commissioner of Inspectional Services and City Engineer, final as-built plans in paper and digital format signed and stamped by a licensed land surveyor.

- c. Filed with the City Clerk and the Department of Inspectional Services a statement by the Director of Planning and Development approving final location, number and type of plant materials, final landscape features and fencing.
  - d. Obtain a written statement from the Engineering Division of Public Works that confirms the receipt of a certified copy of the recorded O&M in accordance with Condition #4.
  - e. Filed with the Clerk of the Council, the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that improvements authorized by this Order have been constructed to the standards of the City of Newton Engineering Department.
13. Notwithstanding the provisions of Condition #12 above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the buildings prior to installation of final landscaping provide that the petitioner shall first have filed a bond, letter of credit, cash or other security in the form satisfactory to the Director of Planning and Development in an amount not less than 135% of the value of the aforementioned remaining landscaping to secure installation of such landscaping.
14. The landscaping shown on the approved Final Landscape Plan shall be maintained in good condition. The plantings shall be inspected annually and any plant material that becomes diseased or dies shall be replaced in a timely manner with similar material.